

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

<b>In re:</b>  <b>W.R. GRACE &amp; CO., <i>et al.</i>,</b>  <b>Debtors.</b>	<b>§</b> <b>§</b> <b>§</b> <b>§</b> <b>§</b> <b>§</b>	<b>Chapter 11</b>  <b>Jointly Administered</b> <b>Case No. 01-01139 (JKF)</b>
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**FEE AUDITOR'S FINAL REPORT REGARDING THIRTY-EIGHTH QUARTERLY  
FEE APPLICATION OF KIRKLAND & ELLIS LLP FOR THE INTERIM  
PERIOD OF JULY 1, 2010 THROUGH SEPTEMBER 30, 2010**

This is the final report of Warren H. Smith & Associates, P.C., acting in its capacity as fee auditor in the above-captioned bankruptcy proceedings, regarding the Thirty-Eighth Quarterly Fee Application of Kirkland & Ellis LLP for the Interim Period of July 1, 2010 through September 30, 2010 (the "Application").

**BACKGROUND**

1. Kirkland & Ellis LLP ("K&E") was retained as counsel to the Debtors. In the Application, K&E seeks approval of fees totaling \$562,760.50 and expenses totaling \$23,282.73 for its services from July 1, 2010 through September 30, 2010 (the "Application Period").

2. In conducting this audit and reaching the conclusions and recommendations contained herein, we reviewed in detail the Application in its entirety, including each of the time and expense entries included in the exhibits to the Application, for compliance with 11 U.S.C. § 330, Local Rule 2016-2 of the Local Rules of the United States Bankruptcy Court for the District of Delaware, Amended Effective February 1, 2010, and the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330, Issued January 30, 1996 (the "U.S. Trustee Guidelines"), as well as for consistency with

precedent established in the United States Bankruptcy Court for the District of Delaware, the United States District Court for the District of Delaware, and the Third Circuit Court of Appeals. Based on our review, we sent to K&E an e-mail inquiry, and received a response from K&E, portions of which response are quoted herein.

### **DISCUSSION**

3. We noted total charges of \$5,852.41 for electronic storage. In response to our request, K&E provided the following information concerning these charges:

They relate to electronic storage fees for everything related to the criminal case, which was previously being billed to matter 57, but that matter is now closed, so I think that is why the charges were moved to matter 52 -- our primary expense-related matter for the Grace case. Given the amount of time that has passed, we are working to arrange to get those files back to the client and/or store them in a way that would not accrue monthly fees. As such, Kirkland would like to take a voluntary reduction in the full amount of those charges.


We appreciate K&E's response and recommend a reduction of \$5,852.41 in expenses.

### **CONCLUSION**

4. Thus, we recommend approval of \$562,760.50 in fees and \$17,430.32 in expenses (\$23,282.73 minus \$5,852.41) for K&E's services for the Application Period.

Respectfully submitted,

**WARREN H. SMITH & ASSOCIATES, P.C.**


By:   
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**FEE AUDITOR**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document has been served by First Class United States mail to the attached service list on this 24<sup>th</sup> day of February, 2011.

  
Warren H. Smith

## **SERVICE LIST**

### **Notice Parties**

#### **The Applicant**

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